



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/786,826	06/15/2001	Wolfgang Dultz	2345/146	6517

26646 7590 02/14/2003

KENYON & KENYON  
ONE BROADWAY  
NEW YORK, NY 10004

[REDACTED]  
EXAMINER

ZARROLI, MICHAEL C

ART UNIT	PAPER NUMBER
2839	

DATE MAILED: 02/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/786,826	DULTZ ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Michael C. Zarroli	2839

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 08 January 2003.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 15-28 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 18, 19, 21 and 23-28 is/are allowed.

6) Claim(s) 15, 17 and 20 is/are rejected.

7) Claim(s) 16 and 22 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 15 June 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a)  The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other:

## DETAILED ACTION

### *Drawings*

1. Drawing objections have been overcome.

### *Claim Objections*

2. Claim objections have been overcome.

### *Claim Rejections - 35 USC § 112*

3. The 112 rejections have been overcome.

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country, in public use, or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 15, 17 and, 20 are rejected under 35 U.S.C. 102(b) as being

anticipated by Hart Jr. et al (US 5418881).

Hart discloses an optical fiber (13) having sections. Each section has at least one right hand curvature and one left hand curvature (claim 1 lines 24-27).

This fiber is bent repeatedly so that the right hand and left hand curvatures are distributed over the optical communications link so that the average torsion of the optical fiber over the link is about zero (abstract, last three sentences).

Regarding claim 17, Hart discloses that the fiber is wound in a helical shape, alternating right and left handed helix (abstract).

Regarding claim 20, Hart discloses a cylindrical carrier element (fig. 3).

***Response to Arguments***

6. Applicant's arguments filed 1/8/03 have been fully considered but they are not persuasive.

Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the **claims present in view of the state of the art disclosed by the references cited**. What specifically does the applicant argue that the claimed invention has in the rejected claims that the reference doesn't? The examiner does not maintain that the **entire** invention of Hart Jr. "identically describes" the applicant's claimed invention. The applicant argues that an "impressed" spin is used in Hart Jr., yet the examiner never brought this spin into the rejection.

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out **how the language of the rejected claims** patentably distinguishes them from the references. On page 6 of the amendment, 2<sup>nd</sup> paragraph, first sentence, the applicant merely restates claim 15 and then says the reference doesn't "identically describe" the claim.

*Allowable Subject Matter*

7. Claims 16 and, 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter: The fiber is bent so that the torsion force of a fiber section (see applicant's argument, pg. 4) of the plurality of sections averages out to about zero over the communications link.

9. Claims 18-19, 21 and, 23-28 are allowed over the prior art of record.

*Conclusion*

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hart Jr. et al (US 5298047) and Evans et al teach an optical fiber wound or spun so that the fiber's characteristics indicate torsion of about zero.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Zarroli whose telephone number is 703-305-0608. The examiner can normally be reached on 7:30 to 3:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne Feild can be reached on (703) 308-2710. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9318 for regular communications and 703-872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.



Michael C. Zarroli  
Examiner  
Art Unit 2839

MCZ  
MCZ  
February 12, 2003